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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,108

03/17/2004

Gary Alan Williams

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EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,108	<b>Applicant(s)</b> WILLIAMS, GARY ALAN	
	<b>Examiner</b> Andre Boyce	<b>Art Unit</b> 3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on May 21, 2009 and July 31, 2009 have been entered.
2. Claims 1, 5, 9, 11, 13 and 19 have been amended, while claim 10 has been canceled. Claims 1-9 and 11-19 are pending.

### ***Information Disclosure Statement***

3. The information disclosure statements (IDS) submitted on April 27, 2009 and May 21, 2009 have both been considered, however several references have been lined through since no copy of the references was provided. In addition, the Examiner notes that the two IDS seem to be identical.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-9 and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (USPN 7,013,285), in view of Kitts (US 2003/0009368).

As per claim 1, Rebane discloses a method for rating customer demand (i.e., consumer rating of a merchant, column 10, lines 44-46), the method comprising executing the following steps sequentially: collecting data representing supplier attributes, customers' desires, supplier's ability to deliver the attributes and dollars paid for that delivery through an input (col. 16, lines 57-61; Figures 1a-2b); storing the collected data to a computer readable media (Figure 3); processing the data through a processor, comprising executing sequentially steps of: reducing the attribute set of demand drivers that represent the attributes in terms of customer desires and supplier delivery with pre-scores for each driver (col. 10, lines 44-65; col. 11, lines 19-40; Figure 5a-6b); creating three identically scaled norms tables from the pre-scores for customer desires, supplier delivery, and dollars paid (i.e., tables containing the average numerical rating for each attribute, as seen in figures 5a, 5d and 5e, col. 18, lines 19-31); calculating an indexed score based upon the created tables (i.e., average performance ratio, figures 5a-5e); clustering groups of customers into demand segments using the indexed scores of demand drivers and dollars paid (Figure 6b; Customers are grouped into percentages based on their evaluations of a merchant.); generating graphs pertaining to a single point in time (i.e., data relating to an transaction between a consumer and a merchant, column 12, lines 2-6) and rendering profiles corresponding to the 3-D customer demand

rating on an output device, (Figure 18; Merchant profiles are built and displayed based on the received customer ratings data.).

While Rebane discloses generating graphs representing the results of customer ratings, Rebane does not explicitly disclose generating the 3-D customer demand rating of each segment based on desires, delivery and dollars. However, providing a graph that is in 3-D form is old and well known in the art. Examiner further submits that the format of the graph used to display the results of customer ratings is mere design choice and does not affect the underlying functionality of how the customer rating data is gathered or calculated. See MPEP §2144.04.

In addition, Rebane does not explicitly disclose wherein the rendered profiles identify a willingness to pay a dollar amount for a predetermined set of attributes. Kitts discloses modeling the business potential of a customer and generating customer profiles, including determining customer preferences, maximum amounts spent by customers, and potential purchasing amount for a customer (¶¶ 0036, 0044-48, 0055-56 and 0065-66).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Rebane to display the customer ratings data in a 3-D format as a 3-D format provides users with a visual report of merchants' ratings, and to include the rendered profiles identify a willingness to pay a dollar amount for a predetermined set of attributes in Rebane, as seen in Kitts, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and

one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Rebane discloses wherein inputting data further comprises inputting data representing attributes of a supplier, an industry, a product, a service, an offering, a program, an event, an emotion, a feeling, a person or any other inanimate or animate object (col. 9, line 60-col. 10, line 5; col. 14, lines 35-45).

As per claim 3, Rebane discloses wherein the customers are identified by demographics, attitudes, behaviors, emotions, purchasing habits, socio-economics and various other unique identifiers (col. 11, lines 55-57; col. 14, lines 35-45).

As per claim 4, Rebane discloses wherein collecting data further comprises customer surveys that are selected from paper surveys, in-person surveys and computer-based surveys (Figures 1a-2b).

Claims 5-8 are rejected based upon the same rationale as claims 1-4, since they are the system claims corresponding substantially to the method claims.

Claims 9, 11 and 12 are rejected based upon the same rationale as claims 1-4, since they are the apparatus claims corresponding substantially to the method claims.

Claims 13-18 are rejected based upon the rejection of claims 1-4, since they contain substantially similar limitations.

As per claim 19, Rebane discloses a method for rating customer demand (i.e., consumer rating of a merchant, column 10, lines 44-46), the method comprising: collecting data representing supplier attributes, customers' desires, supplier's ability

Art Unit: 3623

to deliver the attributes and dollars that the customers willing to pay for the delivery of the supplier attributes through an input (col. 16, lines 57-61; Figures 1a-2b); storing the collected data to a computer readable media (Figure 3); processing the data through a processor, comprising: reducing the attribute set to a manageable number of demand drivers that represent the attributes in terms of customer desires and supplier delivery with pre-scores for each driver (col. 10, lines 44-65; col. 11, lines 19-40; Figure 5a-6b); creating three identically scaled norms tables from the pre-scores for customer desires, supplier delivery, and dollars that the customers willing to pay and calculating corresponding indexed scores for each demand driver in terms of the customer desires, supplier delivery, and dollars that the customers willing to pay (col. 18, lines 26-31; Figure 6b; The ratings are indexed into different categories.); and clustering groups of customers using the indexed scores of demand drivers and dollars paid (Figure 6b; Customers are grouped into percentages based on their evaluations of a merchant.); and rendering profiles corresponding to the 3-D customer demand rating through an output(Figure 18; Merchant profiles are built and displayed based on the received customer ratings data.); wherein the collected data pertains to a single point in time (i.e., data relating to an transaction between a consumer and a merchant, column 12, lines 2-6).

While Rebane discloses generating graphs representing the results of customer ratings, Rebane does not explicitly disclose generating the 3-D customer demand rating of each segment based on desires, delivery and dollars that the customers willing to pay. However, providing a graph that is in 3-D form is old and well known

Art Unit: 3623

in the art. Examiner further submits that the format of the graph used to display the results of customer ratings is mere design choice and does not affect the underlying functionality of how the customer rating data is gathered or calculated. See MPEP §2144.04.

In addition, Rebane does not explicitly disclose the profiles including a willingness to purchase a predetermined set of attributes. Kitts discloses modeling the business potential of a customer and generating customer profiles, including determining customer preferences, maximum amounts spent by customers, and potential purchasing amount for a customer (¶¶ 0036, 0044-48, 0055-56 and 0065-66).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Rebane to display the customer ratings data in a 3-D format as a 3-D format provides users with a visual report of merchants' ratings, and to include the profiles including a willingness to purchase a predetermined set of attributes in Rebane, as seen in Kitts, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

### ***Response to Arguments***

6. In the Remarks, with respect to claim 1, Applicant argues that Rebane fails to disclose collecting three dimensions of demand pertaining to a single point in time



and identifying a willingness to pay a dollar amount for a predetermined set of attributes.

The Examiner respectfully disagrees. Rebane discloses data relating to a transaction between a consumer and a merchant (column 12, lines 2-6), thus indeed disclosing demand data pertaining to a single point in time. In addition, Rebane in view of Kitts indeed discloses identifying a willingness to pay a dollar amount for a predetermined set of attributes, as seen in the above rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Blanchard et al (UUPN 7280974) disclose selecting potential purchasers from a historical collection of confirmed purchasers.

-Lazarus et al (USPN 7165037) disclose predictive modeling of consumer behavior.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone

Art Unit: 3623

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/  
Primary Examiner, Art Unit 3623  
September 17, 2009